

### **REMARKS**

Reconsideration and allowance of the subject application are respectfully requested. Claims 1-10 are all the claims pending in the application. In response to the Office Action, Applicant respectfully submits that the claims define patentable subject matter.

#### **I. Overview of the Office Action**

Claims 1-10 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over previously cited Ejzak (U.S. Patent No. 6,954,654) in view of newly cited Lee (U.S. Patent No. 5,953,397) and previously cited Landherr et al. (U.S. Patent No. 6,880,156, hereafter "Landherr")<sup>2</sup>. Applicant respectfully traverses the prior art rejections.

#### **II. Claim Rejections**

Applicant respectfully submits that independent claim 1 and analogous independent claims 3, 5, and 9 should be patentable because the cited references, alone or in combination, do not teach or suggest all of the features of the claims.

Independent claim 1 recites in part:

call session control network element (CSCF) intercepting said incoming IP multimedia call, characterised in that said method further comprises the following steps:

said call session control Network element (CSCF) upon intercepting said incoming IP multimedia call activating a dedicated primary application server (AS<sub>Prim</sub>);

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<sup>2</sup> Applicant notes that in the introductory paragraph of the rejection, Examiner indicates that claims 1-10 are rejected based on Ejzak, Hsu and Landherr. The Examiner is requested to clarify this discrepancy in the next Action.

said primary application server (AS<sub>Prim</sub>), upon analysis of said incoming IP multimedia call presenting said incoming IP multimedia call to said called party terminal (CDPT) together with a set of service applications for answering said incoming call, said set of service applications being determined in said analysis; and

said call session control Network element (CSCF) receiving a selection of at least one service application from said set of service applications forwarded by said called party terminal (CDPT).

Applicant respectfully submits that there is no teaching or suggestion in the cited references that a “primary application server (AS<sub>Prim</sub>), upon analysis of said incoming IP multimedia call presenting said incoming IP multimedia call to said called party terminal (CDPT) together with a set of service applications for answering said incoming call, said set of service applications being determined in said analysis”, as recited in independent claim 1 and analogously recited in independent claims 3, 5, and 9.

In response to Applicant’s argument that Ejzak does not teach or suggest a “primary application server (AS<sub>Prim</sub>), upon analysis of said incoming IP multimedia call presenting said incoming IP multimedia call to said called party terminal (CDPT) together with a set of service applications for answering said incoming call, said set of service applications being determined in said analysis”, as claimed, the Examiner now cites column 15, lines 1-13 of Ejzak as allegedly teaching the above-quoted feature of the claims. However, this cited portion of Ejzak merely teaches that a serving call state control function (S-CSCF) performs standard call delivery procedures with HSS 142 and the mobile switching center. The S-CSCF uses C-interface procedures with the HSS to forward the call, and the HSS communicates with the MSC using D-interface procedures. The MSC alerts the called party who answers the call.

Although not clear, the Examiner appears to assert that the claimed “primary Application server” allegedly corresponds to the mobile switching center (MSC) of Ejzak. However, the Examiner does not articulate with any specificity (**or even address**) how the claimed “**service applications**” allegedly read on the cited reference. Nowhere does Ejzak teach or suggest that the MSC, upon analysis of an incoming call, presents the “incoming IP multimedia call to said called party terminal together with a set of service applications for answering said incoming call”, as claimed. The MSC of Ejzak merely alerts the called party of a delivered call, and the called party answers the call. The MSC does not present the called party with service applications for answering the call, as claimed.

Further, Applicant respectfully submits that there is no teaching or suggestion in the cited references that “said call session control Network element (CSCF) upon intercepting said incoming IP multimedia call activating a dedicated primary application server (AS<sub>Prim</sub>)”, as recited in claim 1 and analogously recited in independent claims 3, 5, and 9.

In an exemplary embodiment of the present invention, an incoming call is intercepted and a dedicated primary application server is activated. Upon analysis of the incoming call the dedicated primary application server presents the incoming call to the called party together with a set of service applications for answering the call. Therefore, the called party chooses a service application to answer the incoming call.

The Examiner merely indicates “Ejzak fails to teach explicitly intercepting an IP multimedia call and a selection of at least one service application from said set of service

applications”<sup>3</sup>. However, Applicant respectfully submits that the claims cannot be examined in a vacuum. The claims recite that a dedicated primary application server is activated upon intercepting said incoming IP multimedia call. The Examiner has failed to address at least this aspect of the claims. Lee, which the Examiner cites as alleged support for the claimed intercepting of an IP call, merely cites that when a ring signal is detected, a message answering routine is performed to automatically answer the call with a recorded message requesting selection of service application programs stored in a main computer unit (see column 2, lines 47-60 of Lee).

Lee does not teach or suggest intercepting an IP multimedia call. At best, Lee may intercept or answer a voice call received over a telephone, but does not intercept an IP multimedia call as claimed.

Even assuming *arguendo* that Lee teaches intercepting calls, Lee does not teach or suggest activating a primary application server upon receipt of those calls, and specifically, “upon intercepting said incoming IP multimedia call activating a dedicated primary application server”, as claimed.

The Examiner acknowledges that Ejzak and Lee do not teach or suggest “activating an application server”, as claimed. The Examiner thus relies on Landherr to allegedly remedy this deficiency.

However, Applicant again respectfully submits that Landherr has no relevance to the claimed invention.

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<sup>3</sup> The Office Action dated June 11, 2010 at page 3.

Landherr teaches a server which comprises one or more active server applications, a load detector and an inactive additional server application. The load detector is connected to the server applications, and an allocator causes the additional server to be activated when the load on the server exceeds a threshold (a load condition). This has no relevance to the claimed invention.

The Examiner is yet to provide any supportable objective reasoning why one of ordinary skill in the art would have been motivated to modify Ejzak in view of Landherr. The Examiner contends that it would have been obvious to combine the references “in order to support the requesting server when the load exceed the threshold”.<sup>4</sup> This stated rational is flawed for at least the following reasons.

Ejzak relates to IP multimedia communications. Landherr is not concerned with IP multimedia communications, but relates to the activation of a server application in response to a load condition. There are no load concerns noted in the Ejzak system. Further, Ejzak teaches multiple various servers (for example, servers 152, 153, and 201) which should be able to handle any supposed load, thus undermining the Examiner’s basis for the combination.

In the responsive arguments set forth on page 8 of the Office Action dated June 11, 2010, the Examiner weakly attempts to strengthen his position, but merely repeats verbatim the motivation to combine the references made in the body of the rejection. However, the Examiner does not address or respond to any of the arguments made by Applicant. Specifically, Ejzak is not concerned with loads or load conditions.

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<sup>4</sup> Page 4 of the office Action.

Further, the references, Ejzak and Landherr, are directed to completely different objects such that there is no reason, explicit or otherwise, to combine or modify their teachings in view of each other.

### III. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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WASHINGTON OFFICE

**23373**

CUSTOMER NUMBER

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